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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

EARNEST C. WOODS, II,

Plaintiff - Appellant,

v.

TOM L. CAREY, Warden; et al.,

Defendants - Appellees.

No. 05-16371

D.C. No. CV-05-01157-MJJ

MEMORANDUM *

Appeal from the United States District Court
for the Northern District of California
Martin J. Jenkins, District Judge, Presiding

Submitted November 13, 2007**

Before: TROTT, W. FLETCHER and CALLAHAN, Circuit Judges.

California state prisoner Earnest C. Woods, II, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging verbal

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

abuse and unwarranted disciplinary action by prison officials. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

The district court dismissed Woods' action for failure to state a claim. Woods does not challenge the district court's grounds for dismissal. *See United States v. Ullah*, 976 F.2d 509, 514 (9th Cir. 1992) (limiting consideration of matters on appeal to those that are specifically and distinctly argued in appellant's opening brief).

We do not consider Woods' contentions regarding First Amendment retaliation and illegal incarceration because he raises these issues for the first time on appeal. *See Allen v. Ornoski*, 435 F.3d 946, 960 (9th Cir. 2006), *cert. denied*, 546 U.S. 1136 (2006) (explaining that the Court will not review issues not raised in district court except in special circumstances such as to prevent manifest injustice).

We deny Woods' request for judicial notice. *See Flick v. Liberty Mut. Fire Ins. Co.*, 205 F.3d 386, 392 n.7 (9th Cir.2000) (concluding that facts not relevant on appeal are not subject to judicial notice).

AFFIRMED.